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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/382,421	08/24/1999	JEFFRY JOVAN PHILYAW	PHLY-24.740	5215
25883	7590	10/13/2006		
HOWISON & ARNOTT, L.L.P P.O. BOX 741715 DALLAS, TX 75374-1715			EXAMINER LUU, LE HIEN	
			ART UNIT 2141	PAPER NUMBER

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/382,421

Applicant(s)

PHILYAW ET AL.

Examiner

Le H. Luu

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10/02/06 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-9.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
Please refer to attached sheets.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

Le H Luu  
Primary Examiner  
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1. In the remarks, applicants argued in substance that

(A) Applicants believe that Examiner's combination of Wilz and Perkowski is conclusory. As such, Applicants believes that the Perkowski and Wilz references, taken either in combination or singularly, do not obviate or anticipate Applicants' present inventive concept, as defined by the presently presented claims.

As to point (A), in rejecting claim 1, Examiner stated that Perkowski teaches the invention substantially as claimed, including a visual indicia for facilitating computer based access of a network by consumer, comprising:

a machine readable code disposed on a surface of a product and having encoded therein information as to the product, which product is provided by the product manufacturer, and which machine readable code is physically associated with the product itself, which machine readable code has no routing information contained therein to allow a user to access any location on a network, and which machine readable code has a relationship to the product or service unrelated to routing information (col. 10 lines 14-33; UPC or UPN has relationship to a product or service but has no routing information);

the machine readable code being a part of a relational database that associates the machine readable code with a defined location on the network and the relational database associated with a routing system that facilitates connection to the remote location on the network (col. 6 line 26-56); and

a visual indicia having no apparent relationship to the machine readable code or to the defined location disposed on said surface in a predetermined proximate visual

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orientation to said machine readable code, such that the machine readable code and the visual indicia together form a defined composite visual appearance (Perkowski, col. 4 lines 5-23; col. 20 line 9-14; col. 21 line 52 - col. 22 line 19; trademark symbol or logo or company name is printed on service or product with bar code), indicative of a relationship between said machine readable code and the presence of a location on a network that will use the routing system for connection to the remote location and that such location on the network can be accessed by a computer having an appropriate input device (Perkowski, bar code reader or scanner) for reading said machine readable code, such that reading of said machine readable code by said input device will cause the routing system to connect the computer to the remote location (col. 10 line 14 – col. 11 line 16; col. 15 lines 9-43).

However, Perkowski does not explicitly teach the visual indicia associated with the routing system and indicates that scanning of the machine readable code will cause computer based access of the network.

Wilz teaches each URL encoded bar code symbol (machine readable code) is printed above each Web-site URL (visual indicia) which indicates that scanning of the URL encoded bar code symbol will cause computer based access the Web-site URL (col. 2 lines 49 - col. 3 line 12; col. 7 lines 20-40; col. 16 line 61 - col. 17 line 18).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Perkowski and Wilz to provide a visual indicia on the same surface as the bar code or machine readable code to indicate

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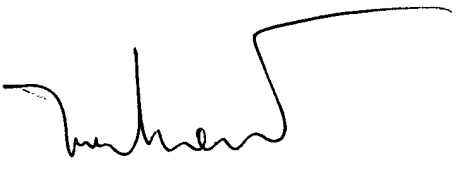
that by scanning of the machine readable code will cause computer based access of the network because it would indicate to users the URL that contains additional information.

Examiner has established a prima facie case of obviousness under 35 U.S.C. 103(a) using Perkowski and Wilz as discussed above. Therefore, Examiner believes that the present claimed inventions is unpatentable over the teachings of Perkowski and Wilz.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
A handwritten signature in black ink, appearing to read 'Le Hien Luu', is written over a horizontal line.

LE HIEN LUU  
PRIMARY EXAMINER